

# EXHIBIT 2

1 MR. RAPPAPORT: Officer Smith, please.

2

3 TONY SMITH, a witness for the defense, was  
4 sworn and testified as follows:

5

6 DIRECT EXAMINATION

7 By Mr. Rappaport:

8 Q Would you state your name for the record, sir?

9 A Patrolman Tony Smith.

10 Q And Patrolman Smith, directing your attention to  
11 August 19, 1988, were you employed that evening?

12 A Yes, sir, I was.

13 Q At a certain point during the course of that evening,  
14 did you respond to the scene of a homicide?

15 A Yes, I did.

16 Q And do you recall which homicide that was?

17 A The homicide of Tiffany Moore.

18 Q Now, sir, did you perform any functions at the scene  
19 of the homicide?

20 A No. We basically just drove by the scene.

21 Q Okay. And when you say, we, were you with your  
22 partner, Mr. DeLuca, at that time?

23 A That's affirmative.

24 Q And at a certain point while you were in your vehicle,  
25 did you receive a radio dispatch about a particular

1 vehicle?

2 A Yes, we did.

3 Q And do you recall what vehicle you received that  
4 dispatch about?

5 A A white Samurai Suzuki.

6 Q And at a certain point did you and your partner stop  
7 a white Samurai Suzuki?

8 A Yes, we did.

9 Q And when you stopped that vehicle, were you able  
10 to get the identifications of the people in that  
11 vehicle?

12 A The passenger of that vehicle, I was able to identify.

13 Q Okay. And who was the passenger of that vehicle?

14 A One Theron "Apple" Davis.

15 MR. RAPPAPORT: Thank you, sir. I have no  
16 further questions.

17 MR. BEAUCHESNE: No questions, Your Honor.

18 THE COURT: Thank you.

19 MR. RAPPAPORT: Judge, I'm sorry to have to  
20 do this, but we have to approach one more time.

21 BENCH CONFERENCE OFF THE RECORD

22 MR. RAPPAPORT: Mr. Simms.  
23  
24  
25

1 Q Any other evidence of any note that was found at the  
2 scene as far as you know?

3 A Not to my knowledge, sir.

4 MR. RAPPAPORT: I have no further questions  
5 of this witness.

6 THE COURT: Do you have any questions,  
7 Mr. Beauchesne?

8 MR. BEAUCHESNE: No, Your Honor.

9 THE COURT: You may be excused.

10  
11 MIKE DELUCA, a witness for the defense, was  
12 sworn and testified as follows:

13  
14 DIRECT EXAMINATION

15 By Mr. Rappaport:

16 Q State your name for the record, please.

17 A My name is Mike DeLuca.

18 Q And Mr. DeLuca, directing your attention to the evening  
19 of August 19, 1988, were you employed as a Boston  
20 Police officer?

21 A Yes, sir, I was.

22 Q And were you working with a partner that night?

23 A Yes, I was.

24 Q And who was that partner, sir?

25 A His name was Tony --

1 Q Smith?

2 A Tony Smith, that's it, sir.

3 Q And again directing your attention to that night,  
4 sometime around 9:30, did you proceed to a particular  
5 crime scene?

6 A No, sir.

7 Q Sometime during that night did you receive a broadcast  
8 with regard to a particular automobile?

9 A Yes, sir, we did.

10 Q And as a result of receiving that broadcast, did you  
11 stop a certain automobile?

12 A Yes, sir.

13 Q And would you describe the automobile that you stopped  
14 that night?

15 A It was a white Suzuki, sir.

16 Q How many occupants in that white Suzuki?

17 A Two occupants.

18 Q And did you, after stopping the automobile, did you  
19 get the identification of the people that were in that  
20 vehicle?

21 A Yes, sir, I believe we did.

22 Q And do you recall what the identification -- who those  
23 people were?

24 A No, I don't recall who they were, sir.

25 Q Sir, if I were to show you a report prepared by your

1 partner that evening, might that refresh your  
2 recollection as to the identity of the individuals?

3 A It may, it may not.

4 MR. RAPPAPORT: May I show the document, Your  
5 Honor?

6 THE COURT: Just read the document to yourself,  
7 sir.

8 BY MR. RAPPAPORT:

9 Q Does that refresh your recollection?

10 A On the type of vehicle it does, sir.

11 Q Okay.

12 A On the occupants, I'm still not quite sure who they  
13 were.

14 Q It's fair to say, sir, that you did, at least at that  
15 time, check the identification of the people in that  
16 vehicle?

17 A Yes, sir.

18 Q Now, sir, I want to direct your attention to  
19 August 21 of 1988, two days later. Did you assist in  
20 an investigation with regard to certain potential  
21 evidence with an Officer Mirner, do you recall?

22 A If you could go into more detail, I don't really  
23 recall what you're talking about.

24 Q Okay. During the evening or sometime during the day or  
25 evening of August 21 of 1988, did you conduct a search

1 for certain masks in an area?

2 A Yes, sir.

3 Q And do you recall where that was that that search  
4 for the masks occurred?

5 A It was over in the South End, sir, near the Herald.  
6 I don't recall the exact location.

7 Q But it was in the South End of Boston?

8 A I believe it was, yes.

9 THE COURT: When you say the Herald, what does  
10 that mean?

11 THE WITNESS: The Herald newspaper.

12 THE COURT: Where is that in the city?

13 THE WITNESS: In the South End.

14 THE COURT: Can you be more specific in the  
15 South End, where that is? Is it on Tremont Street?

16 THE WITNESS: It's on Herald Street, I believe.

17 THE COURT: Herald Street?

18 THE WITNESS: The Herald building on Herald  
19 Street.

20 BY MR. RAPPAPORT:

21 Q But this was in the South End of Boston?

22 A Yes, sir.

23 Q And do you recall whether or not certain masks were  
24 found that night?

25 A I'm really not sure if they were or not. I don't believe

1       there were any masks found. We searched the buildings  
2       and the roofs, etcetra.

3               MR. RAPPAPORT: No further questions.

4               MR. BEAUCHESNE: No questions.

5               THE COURT: Thank you.

6               THE WITNESS: Thank you.

7               MR. RAPPAPORT: Your Honor, may we approach  
8       side bar?

9       BENCH CONFERENCE

10              MR. RAPPAPORT: I note that Mr. Laymon is  
11       in the courtroom right now, and unless Mr. Smith gets  
12       here -- I'm not running out of witnesses. I can call  
13       Detective Walsh, and he will be a witness.

14              THE COURT: He will be quite a while?  
15       Off the record.

16              (Discussion off the record at the bench.)

17       END OF BENCH CONFERENCE

18              THE COURT: I have to interview another  
19       witness outside of your presence and listen to that  
20       person, and we will have to excuse you. I can't say  
21       any more than that. I think literally about fifteen  
22       minutes.

23              Thank you. Would you take the jury out.

24       JURY OUT

25              THE COURT: For the record, this is John